

### **REMARKS/ARGUMENTS**

Claims 35-66 and 69 remain in the application for further prosecution. Claims 35 and 54 have been amended. Claims 1-34 and 67-68 were previously canceled.

#### **Claim Rejections – 35 U.S.C. § 103**

Claims 35-48, 52-65 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,648,754 B2 (“Baerlocher”) and U.S. Patent No. 6,241,608 (“Torango”).

Claims 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baerlocher and Torango and U.S. Patent No. 6,599,192 (“Baerlocher ‘192”) and in view of U.S. Patent No. 5,275,400 (“Weingardt”).

Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baerlocher and Torango, as applied to claims above, and further in view of U.S. Patent No. 6,224,484 B1 (“Okuda”).

The claims at issue relate to progressive games allowing eligibility for at least one progressive game payoff at a plurality of gaming terminals. The progressive game payoff is funded from a percentage of the player wagers at the plurality of gaming terminals. The progressive game is activated in response to achieving the progressive game entry award in a basic game. In one example, a player may select a sequence of a plurality of player-selectable game elements and is awarded the progressive game payoff in response to selecting a certain set of player-selectable game elements and also awarded credit awards when selecting elements that do not belong to the certain set of elements. Another example is using player inputs to determine whether a first progressive payoff is awarded or a greater second progressive payoff is awarded. Another example is displaying player-selectable inputs including a stop-game and a continue-game input. When a continue-game input is selected, the player continues the progressive game and is awarded a credit award in addition to any progressive game payoff. When the stop-game input is selected, the game is ended.

In contrast, Baerlocher is directed a singular gaming machine and not a plurality of game terminals that are necessary for progressive awards. Baerlocher relates to a game where a player selects one of a series of price tags 108a-x that conceal a number of steps as shown in Fig. 5. The price tags 108a-x do not conceal anything else other than the number of steps. Each price tag 108a-x selected allows a player to earn a greater award based on the increasing the steps on a scale of steps 110 by the number of steps revealed in the price tag. A player may stop the selections at any time to accept the award indicated on a scale of steps 110 or attempt to gain further steps for a greater award value. If the number of steps on the scale 110 is exceeded, the player receives a much smaller consolation award. Thus, the player may only receive one award based on where on the series of steps in the scale 110 the player elects to stop. Any combination of selections may result in the proper number of steps on the scale 110, and therefore Baerlocher also does not disclose a specific set of elements associated with a credit award as the selections may result in no award at all.

Applicant has amended claim 35 to define that the “player-selectable game elements during said progressive game” include “a first set of at least two elements associated with a progressive game payoff and a second, distinct set of elements, each being associated with a respective credit award.” Claim 35 has also been amended to require that a player is awarded the progressive game payoff in response to selecting the first set of elements and the player is awarded a respective credit award in response to selecting one of the second set of elements. As explained above, Baerlocher does not anticipate these elements because Baerlocher does not allow a player to receive two different types of awards (the credit and the progressive awards in the claims). Players in Baerlocher only receive the single award based on the step on the scale 110 they decide to accept. Further, Baerlocher does not disclose a first set of elements associated with a progressive award and a second set of distinct elements from the first set of elements, because all of the selectable elements in Baerlocher are added toward the same ultimate award.

The Final Office Action has asserted that Baerlocher discloses “if the player selects and still has enough ‘offers’ available then the player is provided with player selectable elements to try and win the progressive prize” citing Figs. 3, 5 and 6. (p. 3). Applicant respectfully disagrees with this characterization of Baerlocher. Nothing in these figures or the related description indicates that Baerlocher allows a player to use available offers to select additional elements to win the progressive prize. As explained above, Baerlocher only allows awarding one prize from the scale 110. In fact, Baerlocher does not even disclose that any prize may be a progressive. Applicant respectfully submits that claim 35 and its dependents are allowable over Baerlocher.

Applicant has amended claim 54 to require that a continue-game input with an associated credit award and a stop-game input are concealed from the player. Claim 54 thus requires that the associated credit award be awarded to a player in addition to any progressive award if a continue-game input is selected and the game is terminated if the stop-game input is selected. Baerlocher does not disclose a concealed continue-game input with an associated credit award or a concealed stop game input. The Office Action has not indicated that Baerlocher discloses a concealed continue-game input or a concealed stop-game input. The player selectable elements 108a-x in Figs. 4-6 of Baerlocher do not inherently have any associated award or stop the game as such actions depend on the previous selections in relation to the scale 110. To the extent that the selectable elements 108a-x in Baerlocher continue the game, they do not conceal an associated credit award. In fact, the credit award varies depending on how many steps the player has previously accumulated on the scale 110. Thus, Baerlocher does not disclose these elements. Claim 54 is also allowable because as explained above Baerlocher does disclose awarding a credit award in addition to a progressive award. Baerlocher only awards one award based on the ultimate value of the steps on the scale 110 shown in Fig. 5.

Claims 44, 59 and 69 are also allowable over Baerlocher and Torango. The Office Action has asserted that Baerlocher discloses a first and a greater second game payoff. The

Office Action has conceded that Baerlocher does not disclose a bonus payoff in the form of a progressive system but relies on Torango as disclosing a progressive award. Baerlocher does not disclose the ability to win both the first and second progressive awards as required by these claims. As explained above, Baerlocher only allows one award of a variety of awards on the steps 110 to be awarded to a player. Baerlocher would not be combined with Torango because the awards in Baerlocher are fixed according to the steps. In contrast, variable awards could not be tied to a number steps and thus one of ordinary skill would not combine Baerlocher with the concept of a progressive award in Torango.

## **Conclusion**

It is Applicant's belief that all of the claims are now in condition for allowance and actions towards that effect is respectfully requested.

If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the number indicated.

Respectfully submitted,

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